

## Senate Concurrent Resolution 5 - Introduced

### SENATE CONCURRENT RESOLUTION NO. 5

BY SODDERS and SCHNEIDER

1 A Concurrent Resolution requesting the Congress of  
2 the United States to repeal the federal Act of  
3 June 30, 1948, that conferred on the State of Iowa  
4 jurisdiction over offenses committed by or against  
5 Indians on the Meskwaki Settlement.

6 WHEREAS, the Sac and Fox Tribe of the Mississippi  
7 in Iowa (the Meskwaki) is a federally recognized tribe  
8 organized in accordance with Section 16 of the federal  
9 Indian Reorganization Act of June 18, 1934, 48 Stat.  
10 984, as amended by the federal Act of June 15, 1935, 49  
11 Stat. 378, under a Constitution and Bylaws approved by  
12 the Secretary of the Interior on December 20, 1937; and

13 WHEREAS, in 1857, the Meskwaki purchased 80 acres  
14 in Tama County which was held in trust by the State of  
15 Iowa as permitted by then Governor James Grimes and  
16 for the next 30 years the Meskwaki governed themselves  
17 virtually free from interference from both the federal  
18 and state governments; and

19 WHEREAS, the jurisdictional status of the Meskwaki  
20 during this period of time was unclear as the tribe was  
21 recognized by the federal government but also had a  
22 continuing relationship with the State of Iowa due to  
23 the Meskwaki's private ownership of land which was held  
24 in trust by the Governor of the State of Iowa; and

25 WHEREAS, in 1895, in order to clear up any  
26 ambiguities, the State of Iowa ceded to the federal  
27 government all jurisdiction over the Meskwaki with the  
28 stipulation that nothing in the transfer of the tribal

1 lands would prevent the State of Iowa from exercising  
2 jurisdiction over crimes against the laws of Iowa  
3 committed either by Indians or others on the Meskwaki  
4 Settlement; and

5 WHEREAS, during what is now known as the Indian  
6 Termination Era, the United States government tried to  
7 end its trusteeship over Indian reservations throughout  
8 the country and in part passed the federal Act of June  
9 30, 1948, which conferred jurisdiction over criminal  
10 offenses committed on the Meskwaki Settlement to the  
11 State of Iowa; and

12 WHEREAS, the federal Act of June 30, 1948, was  
13 passed at a time when there was a perception that  
14 there was lawlessness on the Meskwaki Settlement and  
15 an absence of adequate tribal institutions for law  
16 enforcement; and

17 WHEREAS, the passage of the federal Act of June 30,  
18 1948, provided no federal funding to the State of Iowa  
19 to assume this responsibility which has amounted to an  
20 unfunded federal mandate and the resulting cost over  
21 the years has been unfairly borne by the taxpayers of  
22 Tama County; and

23 WHEREAS, in the past 67 years much has changed at  
24 the federal, state, and tribal levels in the area of  
25 criminal law enforcement and in the development of laws  
26 in general on the Meskwaki Settlement; and

27 WHEREAS, the federal Tribal Law and Order Act of  
28 2010, Pub. L. No. 111-211, authorized Indian tribes  
29 to expand the prosecution and punishment of criminal  
30 offenders if certain due process requirements were

1 followed; and

2 WHEREAS, Indian tribes have recently achieved more  
3 authority to prosecute criminal offenses committed  
4 on tribal lands as evidenced by the enactment of the  
5 federal Violence Against Women Reauthorization Act  
6 of 2013, Pub. L. No. 113-4, which for the first time  
7 allowed tribal enforcement over non-natives who commit  
8 domestic violence on tribal lands; and

9 WHEREAS, the State of Iowa was the first in the  
10 nation to pass Native American grave protection  
11 legislation, commonly known as the Iowa Graves  
12 Protection Act, 1976 Iowa Acts, ch. 1158, §7, that  
13 came into law before the federal version and before  
14 the more recent passage of Iowa's Recognition and  
15 Enforcement of Tribal Civil Judgments Act, 2007 Iowa  
16 Acts, ch. 192, which followed the development of the  
17 Meskwaki Tribal Court System in 2005, with its first  
18 case being tried in 2006, and 2003 state legislation,  
19 2003 Iowa Acts, ch. 87, recognizing the Meskwaki Tribal  
20 Police and allowing them to participate in the Iowa Law  
21 Enforcement Academy and to become state certified; and

22 WHEREAS, the Meskwaki has greatly enhanced at  
23 its own expense the tribe's criminal justice system  
24 and now provides a fully functioning court system  
25 through the establishment of a state certified police  
26 force, legally trained and licensed public defenders,  
27 prosecutors and judges, and a full-time probation  
28 officer, and provides for the publication of its tribal  
29 laws; and

30 WHEREAS, the Iowa Coalition Against Sexual Assault

1 and the Iowa Coalition against Domestic Violence have  
2 noted that the victims of domestic violence on the  
3 Meskwaki Settlement prefer that prosecution and other  
4 court services be handled by the tribal court of the  
5 Meskwaki Settlement; NOW THEREFORE,

6 BE IT RESOLVED BY THE SENATE, THE HOUSE OF  
7 REPRESENTATIVES CONCURRING, That the Iowa General  
8 Assembly urges the members of the United States Senate  
9 and the United States House of Representatives to  
10 repeal the Act of June 30, 1948, Pub. L. No. 846,  
11 62 Stat. 1161, which conferred on the State of Iowa  
12 jurisdiction over offenses committed by or against  
13 Indians on the Meskwaki Settlement and to take whatever  
14 steps are necessary to achieve such a repeal; and

15 BE IT FURTHER RESOLVED, That upon passage of this  
16 resolution, the Secretary of the Senate shall transmit  
17 copies of this resolution to the President of the  
18 United States Senate, the Speaker of the United States  
19 House of Representatives, and the members of Iowa's  
20 congressional delegation.